



Department of Defense INSTRUCTION

DoDI-1030.2

December 23, 1994

NUMBER 1030.2

USD (P&R)

SUBJECT: Victim and Witness Assistance Procedures

- References:
- (a) DoD Directive 1030.1, "Victim and Witness Assistance," November 23, 1994
 - (b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
 - (c) Section 10606 et seq. of title 42, United States Code
 - (d) Section 10681 of title 42, United States Code
 - (e) through (i), see enclosure 1

A. PURPOSE

This Instruction:

1. Implements policy, assigns responsibilities, and prescribes procedures under reference (a) to provide assistance to victims and witnesses of crimes committed in violation of reference (b).
2. Implements references (c) through (i) by providing guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.
3. Establishes the "Victim and Witness Assistance Council."

B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. POLICY

It is DoD policy that:

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1. The necessary role of crime victims and witnesses in the criminal justice process should be enhanced and protected.

2. The DoD Components shall do all that is possible within limits of available resources to assist victims and witnesses of crime, in accordance with the requirements listed in section F., below, without infringing on the constitutional rights of an accused. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

3. This Instruction is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or a witness the assistance outlined in this Instruction. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

4. Officers and employees engaged in the detection, investigation, or prosecution of crimes, and the confinement of criminals, shall ensure that victims are accorded their rights. As provided for in 42 U.S.C. 10606 et seq. (reference (c)) and 18 U.S.C. 1512-1514 (reference (e)), a crime victim has the right to:

a. Be treated with fairness and respect for the victim's dignity and privacy.

b. Be reasonably protected from the accused offender.

c. Be notified of court proceedings.

d. Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

e. Confer with the attorney for the Government in the case.

f. Receive available restitution.

g. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

5. Court-martial convening authorities and clemency and parole boards shall consider making restitution to the victim a condition of granting pretrial agreements, reduced sentences, clemency, and parole. They may consider victim statements on the impact of crime.

E. RESPONSIBILITIES

1. The Under Secretary of Defense for Personnel and Readiness shall:

a. Develop overall policy for victim and witness assistance and monitor compliance with this Instruction.

b. Approve procedures developed by the Secretaries of the Military Departments that implement this Instruction and are consistent with section F., below.

c. Change, reissue, or amend this Instruction as required.

d. Ensure the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) includes in its publications for CHAMPUS-eligible members information about victims' entitlements to apply for compensation from State crime victims funds.

e. Ensure the Defense Manpower Data Center assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

f. Establish an interdisciplinary Victim and Witness Assistance Council to provide a forum for the exchange of information and the consideration of victim and witness policies, to provide a liaison with the Department of Justice Office for Victims of Crime, and to coordinate the victims' advocates programs under 10 U.S.C. 113 note (reference (f)). The membership of the Council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise in the disciplines and professions addressed in paragraph E.2.f., below. The Council will meet quarterly or at the call of the chair.

2. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

a. Ensure compliance with this Instruction and establish policies and procedures to implement the victim and witness assistance program within their Component.

b. Designate the Component responsible official, as defined in item 2. of enclosure 2, for the victim and witness assistance program, who will report annually to the Under Secretary of Defense for Personnel and Readiness using DD Form 2706, "Victim and Witness Assistance Annual Report" (enclosure 8).

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c. Provide for the assignment of personnel in sufficient numbers to enable those programs identified in 10 U.S.C. 113 note (reference (f)) to be carried out effectively.

d. Designate a central repository for confinee information, as defined in item 1. of enclosure 2, for each Military Service, and establish procedures to ensure victims who so elect are notified of changes in inmate status.

e. Establish an interdisciplinary Victim and Witness Assistance Council in accordance with reference (f) to coordinate the development of policy recommendations and the implementation of the Victims' Advocate program within their respective programs of victim and witness assistance, family advocacy, and equal opportunity.

f. Establish a Victim and Witness Assistance Council, to the extent practicable, at each significant military installation, to ensure an interdisciplinary approach is followed by victim and witness service providers. These providers may include law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, equal opportunity personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments.

g. Establish a training program to ensure the providers listed in paragraph E.2.f., above, receive instruction to assist them in complying with this Instruction.

h. Ensure distribution to local responsible officials of the Department of Justice (DoJ) Federal Resource Guide on Victim and Witness Assistance.

i. Designate local responsible official positions. The local responsible official (also referred to by Services as Victim/Witness Coordinator, Victim/Witness Liaison, and Victims' Advocate) shall ensure that systems are in place at the installation level to provide information on available benefits and services, assistance in obtaining those benefits and services, and other services required in section F., below. The local responsible official may delegate as appropriate, but retains responsibility for delivery of required services. To coordinate the delivery of services, the local responsible official may use an interdisciplinary approach involving the various service providers listed in paragraph E.2.f., above.

j. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in section F., below. Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.

3. The Inspector General of the Department of Defense shall develop investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), the Heads of DoD Components, the Component responsible officials, or the local responsible officials.

F. PROCEDURES

1. Initial Information and Services to be Provided to Victims and Witnesses. At the earliest opportunity after identification of a crime victim or witness, the local responsible official, law enforcement officer, or criminal investigation officer shall provide the following services to each victim and witness, as appropriate: The DD Form 2701, "Initial Information for Victims and Witnesses of Crime," (enclosure 3) shall be used as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer-generated equivalent. Until the DD Form 1569 is available in forms distribution channels, existing Service incident report forms may be used to annotate the date the DD Form 2701 is given. This annotation serves as evidence that the officer notified the victim or witness of statutory rights. The following services shall also be provided by the local responsible official or designee:

a. Information about available military and civilian emergency medical and social services and, when necessary, assistance in securing such services.

b. Information about restitution or other relief a victim may be entitled to under 42 U.S.C. 10601 et seq. (reference (c)), 42 U.S.C. 10681 (reference (d)), 18 U.S.C. 1512-1514 (reference (e)), or other applicable laws, and the manner in which such relief may be obtained.

c. Information to victims of intra-familial abuse offenses on the availability of limited transitional compensation benefits and possible entitlement to some of the active duty member's retirement benefits under 10 U.S.C. 1058, 1059, and 1408 (reference (i)).

d. Information about public and private programs that are available to provide counseling, treatment, and other support, including available compensation through Federal, State, and local agencies, using the DoJ Federal Resource Guide to Victim and Witness Assistance from the Office for Victims of Crime.

e. Information about the prohibition against intimidation and harassment of victims and witnesses, and arrangements for the victim or witness to receive reasonable protection from threat, harm, or intimidation from a suspected offender and from people acting in concert with or under the control of the suspected offender.

f. Information about the military criminal justice process, the role of the victim or witness in the process, and how the victim or witness can obtain additional information concerning the process and the case.

g. If necessary, assistance in contacting the people responsible for providing victim and witness services and relief.

2. Information to be Provided During Investigation of a Crime. If the victim or witness has not already received the DD Form 2701 from law enforcement officials, it shall be used by investigators as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer generated equivalent as specified in subsection F.1., above. This annotation serves as evidence that the officer notified the victim or witness of statutory rights. Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of:

a. The status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.

b. The arrest of the suspected offender.

c. A decision not to pursue prosecution.

d. The preferral or referral of charges against the suspected offender.

3. Information and Services to be Provided During the Prosecution of a Crime. The following services shall be provided by government trial counsel or designee to victims and witnesses upon referral of an offense to court-martial: The DD Form 2702, "Court-Martial Information for Victims and Witnesses," (enclosure 4) shall be used as a handout to convey basic information about the court-martial process. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer-generated equivalent as specified in paragraph F.1., above. When applicable, the following shall be provided to victims:

a. Notification of the initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at an Article 32, UCMJ, investigation (10 U.S.C. 832, reference (b)).

b. Notification of and consultation concerning the release of the suspected offender from pre-trial confinement.

c. Consultation concerning the decision not to prefer charges against the suspected offender.

(This consultation and those listed in paragraphs F.3.d.-g., below, may be limited to avoid endangering the safety of a victim or witness, jeopardizing an ongoing investigation, disclosing classified or privileged information, or unduly delaying the disposition of an offense. Although the victim's views should be considered, this Instruction is not intended to limit the responsibility or authority of the Military Service or Defense Agency officials to act in the interest of good order and discipline.)

d. Explanation of the court-martial process upon referral to trial.

e. Notification of the scheduling, including changes and delays, of each court proceeding the victim is entitled to or required to attend.

f. Consultation concerning a decision to dismiss the charges, or to enter into a pretrial agreement.

g. Notification of the disposition of the case, to include the acceptance of a plea of "guilty," the rendering of a verdict, or the withdrawal or dismissal of charges.

h. Prior to the actual court-martial, provide assistance in obtaining available services such as transportation, parking, child care, lodging, and courtroom translators or interpreters that may be necessary to allow the victim or witness to participate in court proceedings.

i. During the court proceedings, convening authorities should provide a private waiting area out of the sight and hearing of the accused and defense witnesses. In the case of proceedings conducted aboard ship or in a deployed environment, provide the private waiting area to the greatest extent practicable.

j. After court proceedings, take appropriate action to ensure that property of a victim or witness held as evidence is safeguarded and returned as expeditiously as possible.

k. Notification to victims of the opportunity to present to the court at sentencing, in compliance with applicable law and

regulations, a statement of the impact of the crime on the victim including financial, social, psychological, and physical harm suffered by the victim.

1. Notification of the sentence imposed on an offender, including the date on which the offender will be eligible for parole, if applicable.

m. Upon request, inform the victim's or witness' employer of the reasons for the employee's absence from work, or inform creditors of the inability of the victim or witness to make timely payments on accounts, if such absence or inability to pay is caused by the crime or cooperation in the investigation or prosecution. This requirement does not create an independent entitlement to legal assistance or a legal defense against claims of indebtedness.

n. Process all requests from a victim or witness for release of investigative reports or other documents in accordance with DoD 5400.7-R (reference (g)). The local responsible official may authorize release of a copy of the record of trial without cost to a victim when necessary to lessen the physical, psychological, or financial hardships suffered as a result of the criminal act.

4. Information and Services to be Provided Upon Order to Confinement. The following services shall be provided by the government trial counsel or designee to victims and witnesses upon sentencing of an offender to confinement in a court-martial: The DD Form 2703, "Post-Trial Information for Victims and Witnesses," (enclosure 5) shall be used as a handout to convey basic information about the post-trial process. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569-3, "Incident Complaint Report - Result of Trial," or computer-generated equivalent as specified in subsection F.1., above. When appropriate, the following shall be provided victims and witnesses:

a. General information regarding convening authority action, the corrections process, information about work release, furlough, probation, parole, or other forms of release from custody, and eligibility for each.

b. Specific information regarding the election to be notified of changes in inmate status. The DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status," (enclosure 6) shall be used for victims and appropriate witnesses (those who fear harm by the offender) to elect to be notified of changes in the offender's status in confinement. For all cases resulting in a sentence to confinement, the DD Form 2704 shall be completed and forwarded to the Service central repository, the gaining confinement facility, the local responsible official, and the victim or witness if any. The date it is

given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569-3, or computer-generated equivalent as specified in subsection F.1., above. Until the DD Form 1569-3 is available, the date the victim or witness elects to be notified may be annotated on existing Service result of trial forms. (Do not allow the confinee access to DD Forms 2704 or 2705 or attach a copy of the forms to any record to which the confinee has access. Doing so could endanger the victim or witness. The DD Forms 2704 and 2705 are exempt from release under the Freedom of Information Act (FOIA).)

5. Information and Services to be Provided Upon Entry into Confinement Facilities. The victim and witness assistance coordinator at the military confinement facility shall:

a. On entry of an offender into post-trial confinement, obtain the DD Form 2704 to determine victim or witness notification requirements. If the form is unavailable, inquire of the Service central repository whether any victim or witness has requested notification of changes in inmate status in the case.

b. When a victim or witness has requested notification of changes in inmate status on the DD Form 2704, and that status changes as listed in subparagraphs F.5.b.(1)-(5), below, use the DD Form 2705, "Victim and Witness Notification of Changes in Inmate Status," (enclosure 7) to notify the victim or witness. The date of such notifications is reportable beginning July 1, 1995 and shall be annotated on appropriate Service forms to comply with the reporting requirement in subparagraph F.6.a.(5). Provide the earliest possible notice of:

(1) The scheduling of a clemency or parole hearing for the inmate.

(2) The transfer of the inmate from one facility to another.

(3) The escape (and subsequent return to custody), work release, furlough, or any other form of release from custody of the inmate.

(4) The release of the inmate to parole supervision.

(5) The death of the inmate, if the inmate dies while in custody.

c. Make reasonable efforts to notify all victims and witnesses who have requested notification of changes in inmate status of any emergency or special temporary home release granted a inmate.

d. On transfer of a inmate to another military confinement facility, forward the DD Form 2704 to the gaining facility, with an information copy to the central repository.

e. Annually report the status of victim and witness notification requests to the Service central repository as required by section G., below.

6. Reporting Procedures

a. To comply with the requirements of references (c) through (h), the Component responsible official shall submit an annual report using the DD Form 2706 to the Under Secretary of Defense for Personnel and Readiness, Attention: Legal Policy Office, 4000 Defense Pentagon, Washington, DC 20301-4000. The report shall be submitted by March 15 for the preceding calendar year and shall address the assistance provided victims and witnesses of crime. It will be derived from data collected using DD Forms 1569 and 1569-3, computer-generated equivalents, or appropriate Service forms (until the DD Forms 1569 and 1569-3 are available). All Components must use these forms or the computer-generated equivalent for incident reporting as soon as they are available in forms distribution channels. Tracking the services provided to victims and witnesses will begin effective July 1, 1995. The report is due annually beginning March 15, 1996 for the preceding calendar year. The report due on March 15, 1996 will cover the period from July 1, 1995 to December 31, 1995. The report shall include the following:

(1) The number of victims and witnesses who received a DD Form 2701 from law enforcement or criminal investigations personnel. This number is derived from the DD Form 1569 or existing Service incident report forms.

(2) The number of victims who received a DD Form 2702 from government trial counsel or designee. This number is derived from the DD Form 1569-3 or appropriate Service forms.

(3) The number of victims and witnesses who received a DD Form 2703 from government trial counsel or designee. This is derived from the DD Form 1569-3 or appropriate Service forms.

(4) The number of victims and witnesses who elected via the DD Form 2704 to be notified of changes in inmate status. This number is derived from the DD Form 1569-3 or appropriate Service forms.

(5) The number of victims and witnesses who were notified by confinement Victim Witness Assistance Coordinators via the DD Form 2705 of changes in inmate status. This number is derived from appropriate Service forms.

(6) The cumulative number of inmates in each Service for whom victim witness notifications must be made by each Service's confinement facilities. These numbers are derived by totaling the number of inmates with victim or witness notification requirements as of July 1, 1995, adding new inmates with the

the requirement, and then subtracting those confinees who were released, deceased, or transferred to another facility (Federal, State, or sister Service) during the year.

b. OUSD(P&R) shall consolidate all reports submitted as prescribed in subsection F.6., above, and submit an annual report to the Office for Victims of Crime, Department of Justice.

G. INFORMATION REQUIREMENTS

The annual reporting requirement in paragraph F.6.a., above, has been assigned Report Control Symbol DD-P&R(A)1952.

H. EFFECTIVE DATE AND IMPLEMENTATION

The annual reporting requirement in paragraph F.6.a., above is effective July 1, 1995 with the first report due March 15, 1996. The remaining provisions of this Instruction are effective immediately. The Military Departments shall forward two copies of implementing documents to the Under Secretary of Defense for Personnel and Readiness within 120 days.



Edwin Dorn
Under Secretary of Defense
(Personnel and Readiness)

Enclosures - 8

1. References
2. Definitions
3. Sample DD Form 2701
4. Sample DD Form 2702
5. Sample DD Form 2703
6. Sample DD Form 2704
7. Sample DD Form 2705
8. Sample DD Form 2706

References, continued

- (e) Sections 1512-1514 of title 18, United States Code
- (f) Section 113 note of title 10, United States Code
(Section 534, Public Law 103-337, "National Defense Authorization Act for Fiscal Year 1995," October 5, 1994)
- (g) DoD 5400.7-R, "DoD Freedom of Information Act Program," October 1990, authorized by DoD Directive 5400.7, May 13, 1988
- (h) DoD Instruction 7730.47, "Statistical Report of Criminal Activity and Disciplinary Infractions in the Armed Forces," May 16, 1973
- (i) Sections 1058, 1059 and 1408 of title 10, United States Code

DEFINITIONS

1. Central Repository. A headquarters office, designated by the Secretary for each Military Department to serve as a clearing-house of information on inmate status and to collect and report data on the delivery of victim and witness assistance including notification of inmate status changes.

2. Component Responsible Official. Person designated by the Head of each DoD Component primarily responsible in the Component for coordinating, implementing, and managing the Victim and Witness Assistance Program established by this Instruction.

3. Confinement Facility Victim and Witness Assistance Coordinator. A staff member at a military confinement facility who is responsible for notifying victims and witnesses of changes in inmate status and reporting annually the number of those notifications to the Service central repository.

4. Local Responsible Official. Person designated by the Component responsible official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Instruction through an interdisciplinary approach. The position or billet of the local responsible official will be designated in writing by Service regulation. The local responsible official may delegate responsibilities under this Instruction as provided in paragraph E.2.i., above.

5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the UCMJ (reference (b)), (or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals shall include, but are not limited to, the following:

a. Military members and their family members.

b. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This applies to services not available to DoD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.

c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.

d. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

6. Witness. A person who has information or evidence about a crime, and provides that knowledge to a DoD Component about an offense in the investigative jurisdiction of a DoD Component. When the witness is a minor, that term includes a family member or legal guardian. The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

David F. Smith
(Name)
(999) 123-4567
(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

Robert Jones
(Name)
(123) 456-7890
(Telephone Number)

In regard to the prosecution, contact the legal office below:

Eric Prosecute
(Name)
(777) 234-4321
(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

Sara Help
(Name)
(777) 777-7777
(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, contact:

Office for Victims of Crime Resource Center
1-800-627-6872

DEPARTMENT OF DEFENSE



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INITIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

Initial Information

For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance (Victim/Witness Liaison or Advocate) at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured.

If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist. The telephone number for this office is on the back of this brochure.

If You Were a Victim of Spouse or Child Abuse.

For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer

or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

Robert Jones

(Name)

(123) 456-7890

(Telephone Number)

Trial Counsel

Eric Prosecute

(Name)

(777) 234-4321

(Telephone Number)

For further information on crime issues, contact:

Office for Victims of Crime Resource Center

1-800-627-6872

DEPARTMENT OF
DEFENSE



COURT-MARTIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

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Court-Martial Information

For Victims and Witnesses of Crime

Introduction.

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferral of Charges.

Like a civilian criminal "complaint," the referral of charges begins the criminal trial process. Upon referral, you may participate in the case at several points as outlined below.

Pretrial Conference.

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing.

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

Court-Martial.

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

Testimony.

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

Pointers When Testifying.

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument.

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

Your Rights As A Victim.

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;

- To confer with the attorney for the Government (Trial Counsel) in the case;

- To receive available restitution;

- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

Points of Contact:

Service Central Repository

Mike Handler

(Name)
(202) 234-5678

(Telephone Number)

Confinement Facility

Alan Goodman

(Name)
(802) 234-5678

(Telephone Number)

Service Clemency and Parole Board

Gerald Powers

(Name)
(703) 234-5678

(Telephone Number)

Other

Sara Help, State Compensation

(Name)
(777) 777-7777

(Telephone Number)

For further information on crime issues, contact:

Office for Victims of Crime Resource Center
1-800-627-6872

DEPARTMENT OF
DEFENSE



Dec 23, 94
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POST-TRIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

Post-Trial Information

For Victims and Witnesses of Crime

Introduction.

This brochure details the post-trial process and your rights in that process. Most important is your right to be notified of changes in the confinement status of the offender in your case.

Location of Confinement Facility.

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "inmate", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the inmate will be held there temporarily.

Depending on the security level of the inmate, he/she may be assigned to various work details around the installation. If the inmate's period of confinement is 3 months or less, and there are adequate facilities on the installation, the inmate may serve the entire sentence at the installation.

If there is no confinement facility at the installation, the facility is not adequate to house the inmate, or the sentence is in excess of 3 months, he/she will be taken to a regional confinement facility. The inmate

may later be transferred to other facilities available, based on length of sentence, programs and security levels. You will be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status."

Convening Authority Action.

The other parts of the sentence (e.g., forfeitures of pay, reduction in rank) will not be effective until the "convening authority", usually a senior officer, takes "action" on it, generally within 6 to 9 months. The convening authority may disapprove the findings, disapprove or reduce any part of the sentence, or approve everything except a punitive discharge. The convening authority cannot increase any part of the sentence. You have the right to submit a statement to the convening authority on how you feel about the inmate receiving clemency. You can ask the Trial Counsel about this right.

Clemency and Parole Consideration.

Military inmates are eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. You may make a statement to the Clemency and Parole Board on how the crime affected you. The statement may be on audio or video tape or in writing and may be sent to the Service Clemency and Parole Board at the address on the back of this page. A personal appearance before the Board may also be permitted.

Notification Rights.

You have the right to be notified in writing of the following changes in the inmate's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the inmate is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance. It is very important that you keep the confinement facility informed of your current address and telephone number.

How To Exercise Your Rights.

If you want to exercise these rights, and be notified of the dates of any clemency and parole hearings, and changes in the inmate's status, you must fill out DD Form 2704, "Victim/ Witness Certification and Election Concerning Inmate Status." You MUST notify the Service Central Repository of all address and telephone number changes if you want to receive notices. This information will be kept confidential.

Points of Contact.

From now on, your point of contact will be the confinement facility or the Service Central Repository listed on the back of this page. Please call if you have any questions.

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING INMATE STATUS

(This form is exempt from Freedom of Information Act release.)

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 10606 et sec., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et sec., Victim and Witness Protection Act of 1982.

PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness.

ROUTINE USES: None.

DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of changes in a criminal offender's status.

SECTION I - ADMINISTRATIVE INFORMATION

(Incident Number and Organizational Identifier are obtained from DD Form 1569)

Installation Luke AFB, AZ Incident Number 121212121212 Organizational Identifier (ORI) 999999999

SECTION II - REPRESENTATIVE INFORMATION

(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)

As representative for the Government in the court-martial case of United States v. John Q. Perpetrator
(Name of court-martial case)

convened by self-explanatory
(Court-martial convening order number, date, and issuing command)

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820).

19950106

(Date)

Case Prosecutor
Case Prosecutor, Capt, USAF, Chief of Military Justice

(Signature, grade, and title of person certifying)

SECTION III - NOTIFICATION STATEMENT

(Complete this section when there are victims or witnesses entitled to notification.)

I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v.

John Q. Perpetrator, convened by self-explanatory
(Name of court-martial case) (Court-martial convening order number, date, and issuing command)

whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. Finally, I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form.

19950106

(Date)

Case Prosecutor
Case Prosecutor, Capt, USAF, Chief of Military Justice

(Signature, grade, and title of person providing notification)

SECTION IV - ELECTION TO BE NOTIFIED

The victim(s) and witness(es) listed below have elected the right to receive information about changes in the status of the inmate by initialing the "Yes" block. If the inmate is transferred, they understand that they will be notified of the address of the new confinement facility. They also understand that if they move or their telephone number changes, they must notify the confinement facility of the new address or telephone numbers in order to be notified.

LIST ALL VICTIMS AND WITNESSES INVOLVED IN THE CASE. (Indicate whether a victim or witness by entering "V" or "W" in the appropriate column. Those who elect to be notified of inmate status changes should initial in the "Yes" column; otherwise initial the "No" column.)

| NAME (Last, First, Middle Initial) | ADDRESS (Street, Apartment No., City, State, ZIP Code) | TELEPHONE NUMBER (Include Area Code) | V OR W | NOTIFY | |
|---------------------------------------|---|---|-----------|--------|----|
| | | | | YES | NO |
| Johnson, Mary A. | 1234 Main St., Branson, IA 12345-6789 | W (123) 456-7890 H (123) 456-1234 | V | MAJ | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

SECTION V - SUBSEQUENT CHANGE OF ELECTIONS

I have advised all victims and witnesses that if they reconsider and later elect to terminate or to receive the notifications described above, they must contact the Military Service Central Repository at the address listed below.

19950106

(Date)

Case Prosecutor
CASE PROSECUTOR, CAPT, USAF, Chief, Military Justice

(Signature, grade, and title of person providing notification)

DISTRIBUTION (Addresses: include 9-digit ZIP Code and telephone number.)

MILITARY SERVICE CENTRAL REPOSITORY

self-explanatory

LOCAL CONFINEMENT FACILITY

self-explanatory

LAW ENFORCEMENT/SPECIAL INVESTIGATION

self-explanatory

VICTIM/WITNESS (Individual will receive a copy with all other victim/witness addresses blacked out.)

Mary A. Johnson
1234 Main St.
Branson, IA 12345-6789

VICTIM/WITNESS NOTIFICATION OF INMATE STATUS

(This form is exempt from Freedom of Information Act release.)

EXPLANATION: This form is being used to give basic information on changes in an inmate's status to victims and witnesses who elected, on the DD Form 2704, to be notified. The confinement facility holding the inmate must promptly notify victims and witnesses of initial entry into confinement and of confinee status changes in accordance with DoD Instruction 1030.2.

SECTION I - DISTRIBUTION

| | | | | | |
|---|----------|-------------|--|----------|-------------|
| 1. TO: (Victim or Witness) | | | 2. FROM: (Victim/Witness Assistance Coordinator at Confinement Facility) | | |
| a. NAME (Last, First, Middle Initial) Johnson, Mary A. | | | a. NAME (Last, First, Middle Initial) Smith, Lynda D. | | |
| b. STREET ADDRESS (Include apartment no.) self-explanatory | | | b. STREET ADDRESS self-explanatory | | |
| c. CITY | d. STATE | e. ZIP CODE | c. CITY | d. STATE | e. ZIP CODE |
| f. TELEPHONE NUMBER (Include area code) | | | f. TELEPHONE NUMBER (Include area code) | | |

SECTION II - INMATE STATUS

| | | | |
|---|---|--|---|
| 3. INMATE NAME (Last, First, Middle Initial) John Q. Perpetrator | 4. REGISTER NUMBER (assigned by the facility) | 5. MINIMUM RELEASE DATE ON/ABOUT (YYYYMMDD) 19970601 | 6. MAXIMUM RELEASE DATE (YYYYMMDD) 19981215 |
|---|---|--|---|

7. ADDRESS OF SERVICE CLEMENCY AND PAROLE BOARD

| | | | |
|-------------------------------|---------|----------|-------------|
| a. STREET self-explanatory | b. CITY | c. STATE | d. ZIP CODE |
|-------------------------------|---------|----------|-------------|

NOTE 1: Clemency Boards will meet annually from the date of the initial board until the inmate is released. Clemency Boards will be held in conjunction with Parole Boards when the inmate becomes eligible for parole after serving one third of the sentence.

NOTE 2: You may submit documentation to Clemency and Parole Boards when the inmate is scheduled to appear. If you would like to submit a Victim Impact Statement to the Board, please send it to the address above approximately two weeks prior to the scheduled board meeting. Your statement may be submitted in the form of a letter, or audio or video cassette. A personal appearance may also be permitted.

SECTION III - RELEASE ELIGIBILITY

8. RESTORATION AND CLEMENCY ELIGIBILITY

| |
|---|
| <input type="checkbox"/> a. INMATE IS INITIALLY ELIGIBLE TO BE CONSIDERED FOR RESTORATION AND CLEMENCY ON (YYYYMMDD) _____. |
| <input type="checkbox"/> b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR RESTORATION AND CLEMENCY ON (YYYYMMDD) _____. |

9. PAROLE ELIGIBILITY

| |
|---|
| <input type="checkbox"/> a. INMATE IS INITIALLY ELIGIBLE FOR RELEASE ON PAROLE ON (YYYYMMDD) _____. |
| <input type="checkbox"/> b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR PAROLE ON (YYYYMMDD) _____. |

SECTION IV - CHANGE IN INMATE STATUS

10. CLEMENCY/PAROLE APPROVAL

| | | |
|--|--|------------------------------------|
| <input type="checkbox"/> a. INMATE WAS APPROVED FOR <input type="checkbox"/> CLEMENCY <input type="checkbox"/> PAROLE ON (YYYYMMDD) AT (Location) | b. PAROLE OFFICER'S NAME (Last, First, Middle Initial) | TELEPHONE NUMBER (Incl. area code) |
| <input type="checkbox"/> c. INMATE'S SENTENCE HAS BEEN CHANGED AS FOLLOWS: | | |

11. RELEASE

| | | |
|---|-------------------------------------|-------|
| <input type="checkbox"/> a. INMATE IS BEING RELEASED ON (YYYYMMDD) _____. | c. PLANNED RELEASE DESTINATION CITY | STATE |
| <input type="checkbox"/> b. INMATE'S RELEASE IS UNDER NO COMMUNITY SUPERVISION. | | |

12. INMATE IS DECEASED (Date of death)

| | | | |
|----------------------------|---------------------------|--|---------------------------|
| 13. INMATE ESCAPED | b. DESTINATION (If known) | c. DATE, TIME, AND PLACE OF APPREHENSION (If apprehended) | d. PLACE OF RECONFINEMENT |
| a. DATE AND TIME OF ESCAPE | | | |

14. INMATE WAS TRANSFERRED TO ANOTHER CORRECTIONS FACILITY ON (YYYYMMDD)

| | | | |
|-------------------|---------|----------|-------------|
| a. STREET ADDRESS | b. CITY | c. STATE | d. ZIP CODE |
|-------------------|---------|----------|-------------|

15. OTHER

| |
|---|
| <input type="checkbox"/> a. WORK RELEASE PROGRAM BEGAN ON (YYYYMMDD) _____. |
| <input checked="" type="checkbox"/> b. RELEASE ON TEMPORARY HOME PAROLE FROM (YYYYMMDD) 19950125 TO (YYYYMMDD) 19950130. |
| <input type="checkbox"/> c. (Specify) |

16. WE HAVE CANCELLED YOUR REQUEST TO BE NOTIFIED OF THIS INMATE'S RELEASE DUE TO:

| |
|---|
| <input type="checkbox"/> a. YOUR REQUEST |
| <input type="checkbox"/> b. OTHER (Specify) |

SECTION V - VICTIM/WITNESS ASSISTANCE COORDINATOR

| | | | |
|---|-----------------|--------------------------------|----------------------------|
| 17.a. NAME (Last, First, Middle Initial) Smith, Lynda D. | b. RANK MSgt | c. SIGNATURE Lynda D. Smith | d. DATE SIGNED 19950106 |
|---|-----------------|--------------------------------|----------------------------|

ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE

REPORT CONTROL
SYMBOL

This report summarizes delivery of services to victims and witnesses as prescribed by the Victim and Witness Protection Act of 1982 (18 USC 1512) and the Victim's Rights and Restitution Act of 1990 (42 USC 10601-10607). It is submitted annually in accordance with DoD Instruction 1030.2.

1. REPORTING OFFICE

Component Responsible Office

2. REPORTING PERIOD

a. FROM

January 1, 1996

b. TO

December 31, 1997

3. DURING THE REPORTING PERIOD, OUR LAW ENFORCEMENT, SPECIAL INVESTIGATION, TRIAL COUNSEL, AND RELATED OFFICES ASSISTED:

a. UPON INITIAL CONTACT:

11,600 crime victims and 12,300 witnesses were informed of their rights to assistance (DD Form 2701).

b. UPON REFERRAL TO COURT-MARTIAL:

9,450 crime victims were informed of their consultation rights in courts-martial (DD Form 2702).

c. UPON SENTENCING TO CONFINEMENT:

6,342 crime victims and 8,298 witnesses were informed of their right to be notified of changes in the confinee's status in prison (i.e., escape, parole, death) (DD Form 2703).

d. ONCE INFORMED OF THEIR RIGHT TO BE NOTIFIED OF CHANGES IN THE CONFINEE'S STATUS:

4,432 crime victims and 6,324 witnesses, using the DD Form 2704, elected to be notified of confinee status changes.

4. DURING THE REPORTING PERIOD:

452 confinee status changes resulted in 575 notification letters (DD Form 2705) being sent from our confinement facilities.

5. AS OF DECEMBER 31, 1997

Our confinement facilities reported the cumulative total of Service confinees for whom they must make victim or witness notifications as follows:

| (1) ARMY | (2) NAVY | (3) AIR FORCE | (4) MARINES | (5) COAST GUARD | (6) OTHER |
|----------|----------|---------------|-------------|-----------------|-----------|
| 50 | 50 | 50 | 50 | 5 | 5 |

6. DOD COMPONENT RESPONSIBLE OFFICIAL

a. NAME (Last, First, Middle Initial)

self-explanatory

b. SIGNATURE

c. DATE SIGNED
(YYYYMMDD)